IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

C.R.No. 3880 of 2006

Date of decision : 14.9.2006.

Ravinder Kumar & Another.

.....Petitioners.

Versus

Jai Singh & Ors.

.....Respondents.

CORAM : HON'BLE MR. JUSTICE VINOD K. SHARMA

Present : Mr. Narender Hooda, Advocate,
for petitioners.

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VINOD K. SHARMA,J.(ORAL)

This revision petition has been filed against orders dated 7.5.2005 and 24.5.2006 passed by the learned Courts below declining the application moved by the petitioner under Order 39 Rules 1 and 2 read with Section 151 C.P.C. restraining the defendants from interfering in the possession of petitioners.

The learned Courts below have come to the conclusion that the suit of the plaintiffs-petitioners was based on agreement to sell which was not registered and, therefore, could not be used by the petitioner to claim possession. The learned Courts below also took notice of the fact that the execution of the agreement as well as receipt of payment were disputed by the respondents herein. The learned counsel for the petitioners vehemently contended that under the agreement to sell he was put in possession and, therefore, once he was in settled possession, he was entitled to injunction.

The next contention of the learned counsel for the petitioners is that by way of amendment in the Registration Act the right to enforce the agreement is not taken away rather by way of amendment right to claim benefit of Section 53-A of the Transfer of Property Act, is taken away.

I have considered the contention of the learned counsel for the petitioners and find no force. Once by way of amendment in statute it has been held that a person on the basis of unregistered agreement is not entitled to claim benefit of Section 53-A, it means that the petitioners are not entitled to protection of possession claimed to be taken under agreement to sell. In any case, the learned Courts below have given finding that the petitioners are not in possession much less settled possession.

Therefore, there is no error or illegality in the order passed by the Courts below which may call for interference by this Court under Article 227 of the Constitution of India.

Dismissed.

September 14,2006 **(VINOD K. SHARMA)**
'sp' **JUDGE**